

TOWN OF WESTFORD

PLANNING BOARD

MINUTES

DATE: August 2, 2004

TIME: 7:30 P.M.

PLACE: Abbot Millennium School

PRESENT: Michael Green, Andrea Peraner-Sweet, Peter Fletcher,
Robert Shaffer, Fred Palmer

OTHERS

PRESENT: Tim Greenhill-Town Planner, James Arsenault, Town
Engineer, Audience Members

OPEN FORUM

Rome Drive Update – Shaffer recused himself as he is an abutting landowner. John Marderosian, 15 Rome Drive, asked for a status regarding the acquisition of the bond money relative to Rome Drive and a date when this item will be on the agenda for a neighborhood update. Green reported that the Board updated some of the neighbors at the last meeting. Peraner-Sweet reiterated that Town Counsel has, on behalf of the Town, moved to intervene in the lawsuit that is pending against Nick DeMauro. Once the Court allows the motion, the Town will file its request to be able to access that bond money.

ANR – 17 LELAND ROAD
Peter Socerellis

Greenhill reported that the application has been withdrawn today. The applicant will be going before the Zoning Board of Appeals for a Section 6 Finding.

Stone Wall at Kindercare – Greenhill will provide an update at the next meeting. Shaffer asked Greenhill to make sure the pile of debris is removed prior to the issuance of the occupancy permit.

MINUTES

It was moved by Shaffer, seconded by Fletcher, and VOTED UNANIMOUSLY, to approve the minutes of July 6, 2004.

It was moved by Peraner-Sweet, seconded by Fletcher, and VOTED 4 IN FAVOR WITH 1 ABSTAINING (Shaffer), to approve the Executive Session minutes of July 12, 2004 but NOT release to the public.

It was moved by Shaffer, seconded by Palmer, and VOTED UNANIMOUSLY, to approve the minutes of July 12, 2004, as amended.

DIRECTOR'S REPORT

Update on Jennie Richards Road/Bluebird Estates – Greenhill stated that Staff has been in discussions with the developer relative to issues that need to be addressed. There is a stone wall on the right-of-way line. An easement will be required from the homeowner in order to stabilize the slope. Greenhill asked if this would be considered an administrative review or require a re-opening of the public hearing. Fletcher stated that if the work does not require any right-of-way issues it could be handled administratively, but if there are right-of-way issues, it needs to come back before the Board. Arsenault believed that a temporary easement was needed for the grading. Arsenault stated that the developer indicated that once the grading is complete the stone wall will be put back in the same location. Peraner-Sweet stated that she would like to see the stone wall put back in the same location. **It was moved by Peraner-Sweet, seconded by Fletcher, and VOTED UNANIMOUSLY, that the Planning Board direct Staff to deal with the issue set forth in Jamie Magaldi's memo to Tim Greenhill concerning the stabilization and the roadway at Jennie Richards Road/Bluebird Estates as an administrative matter.**

MPIC APPOINTMENTS – **It was moved by Shaffer, seconded by Fletcher, and VOTED UNANIMOUSLY, to reappoint Peter Severance, Diane Holmes and Bob Krankewicz to the Master Plan Implementation Committee.**

MAILBOX

Letter dated July 28, 2004 regarding Tzikopoulos Land – Peraner-Sweet stated that the Town's 120 day right of first refusal is running from July 27, 2004 (date of auction). The purchase price is \$600,000.00. Peraner-Sweet reported that the entity that purchased the property is Stone Pony Realty Trust (the same group that recently had the 6 ANR lots on the corner of Tyngsborough and Groton Roads approved by the Board). Greenhill will notify the Planning Board of the date of the discussion by the Board of Selectmen of this matter.

Memo dated July 27, 2004 from Town Manager regarding Williams Avenue; Speeding – For the Board's information.

Invitation to Brookside Mill Completion - For the Board's information.

**PUBLIC HEARING – HART POND ROAD – DEFINITIVE
SUBDIVISION**

473 Acton Road, Finest Builders, Inc., Continued from June 21, 2004

Greenhill reported that revised plans have not been received to date. Staff met with the applicant on Thursday, July 29th to discuss the comments from the Board and Staff. Attorney Douglas Deschenes, Mark Sleger, LANDTECH Consultants, and Alan Costas, applicant, were present. Sleger reported that since the last meeting the applicant has also met with the Chelmsford Planning Board. A site visit was conducted on June 26, 2004. Sleger submitted responses to comments made by various town departments. Sleger summarized the responses and the expanded waiver justification. The Board asked Sleger to provide technical clarification regarding the 911 emergency response by the Town of Chelmsford. Sleger stated that the applicant is proposing to build a private road that will be maintained privately.

Frank Marisol, 2 Morning Glory Circle, Chelmsford, stated that the neighbors do not want a cut through from this development. Marisol asked that the road be kept a private way to ensure that the cut through does not occur. Marisol was concerned that the land could potentially be used for a Chapter 40B project. Marisol stated that Costas does good job and should be allowed to build his project.

Cheryl Stone, 3 Morning Glory Circle, Chelmsford, stated that her driveway opens onto the cul-de-sac across from where the private way would begin. Stone stated that she moved into the development from Route 27 in Westford one year ago because of the safety of her children. Stone stated that one of the reasons they picked Morning Glory Circle was for the cul-de-sac. Stone stated that when they bought their house they had no idea of the proposed project. Stone stated that she had no objection to the proposal but was concerned that if Costas is not allowed to build the project because of the Westford regulation pertaining to the number of homes on a dead end, another buyer may put in a large 40B condominium project with increased traffic. Stone was also concerned that if a 40B project went in, it would impact her property value as well as cause safety issues for the children.

Green asked Greenhill to look into bonding and lot releases for future discussion relative to Westford and Chelmsford.

Continued to September 7, 2004 at 8:30 p.m.

**PUBLIC HEARING – 85 CARLISLE ROAD, PRELIMINARY
SUBDIVISION**

85 Carlisle Road, Marie R. & Margaret C. Queenan, Continued from June 21, 2004

Jeff Brem, Meisner Brem Corp., was present for the applicant. Greenhill reported that Staff met with Brem on Thursday, July 29, 2004. The Board reviewed the original application on June 21, 2004 and noted that there was a large amount of paving and had requested that Brem look into some other options. Brem outlined a plan showing the adjacent properties, septic systems and wells. Brem showed the approximate location of the wetlands that have been flagged but not formally approved by the Conservation Commission. Brem presented a preliminary 3-lot flexible development plan with Lot 2 brought forward, the 250 foot roadway moved away from the property line, and the protection of some mature trees. Brem proposed an 18 ft. wide, paved, no curbing, private way. The flexible development plan provides approximately 1½ acres of open space. Brem indicated that the applicant would provide an easement to the Town to tie into the existing leaching catch basin if necessary. Brem addressed the proposed drainage. Peraner-Sweet suggested that Brem speak to Westford public safety officials regarding the number of exits and entrances from the roads and driveways and how those interact with each other; and the 90 ft. bulb being unable to accommodate fire apparatus. Green asked for limitation on clearing and some other type of staking, etc. for Lot 2 in relation to the outer riparian zone.

Attorney Dennis Maloney, representing Marie and Michael Collins, abutters at 87 Carlisle Road, submitted a letter to the Board from a nursery regarding the trees on the property line between the Collins and Quinn properties. Maloney stated that the opinion from the nursery is that the original proposed layout of the roadway would damage the trees. Maloney stated that they will be taking the position that the applicant will be liable for any damage to the trees. Maloney stated that Mr. and Mrs. Collins are concerned with the layout and location of the proposed road. Maloney stated that the Police Department has had five incidents over the last six months in the area.

Michael Collins, 87 Carlisle Road, stated the Police Department will be reviewing the last three to five years and will provide a report. Collins stated that his neighbors have indicated that there have been numerous accidents. Collins suggested that the proposed road line up with Griffin Road. Collins stated that his line of sight from his driveway is poor. Collins was not opposed to the applicants subdividing their property.

Maloney felt that the property was difficult to subdivide due to the amount of un-useable land. Maloney did not want to increase the already heavy traffic situation by adding another curb cut into Carlisle Road. Maloney stated that there is no natural buffering between the back of the Collins' house and the property lot line and car headlights will shine into the Collins' house. Maloney felt that putting the road in line with Griffin Road would minimize some of that glare.

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Collins wanted to know what will happen to the old farmhouse on the property after this project is completed. Green stated that the expectation is that the farmhouse will be razed.

Emily Teller, 9 Texas Road, was concerned that the plan does not show the wetlands which may give the impression of dry land. Teller felt that the basin was an issue and that runoff is a concern going into the wetlands. Teller was also concerned with a lot

making a large lawn area which would allow seepage into the river recharge area. Green stated that the Board could put restrictions on the amount of clearing if necessary. Teller asked if the debris that is being dumped will be addressed. Maloney stated that as far as his clients know the dumping has stopped. The piles of debris (stumps) are still on the property.

Collins invited the Board to his house to get an understanding of how the roadway will impact his property and the view from his backyard.

Shaffer asked that the Killam property at 81 Carlisle Road be located on the plan in terms of the roadway placement.

The Board scheduled a site walk for Saturday, August 7, 2004 at 10:00 a.m.

Continued to September 7, 2004 at 7:45 p.m.

PUBLIC HEARING – XAVIER LANE (FORMERLY DUPEE LANE) –
DEFINITIVE SUBDIVISION – 3 LOTS – SPECIAL PERMIT –
COMMON DRIVEWAY
178 Carlisle Road, CTZ Design Partnership, Continued from July 21, 2004

Greenhill reported that plans were received today showing the location of the sidewalks. The plans have not yet been reviewed by the Engineering Department. Attorney Douglas Deschenes was present representing the applicant. Deschenes stated that it was his understanding at the last meeting that they had answered all of the Board's questions. Deschenes stated that since the last meeting Staff indicated that it was their desire that in addition to providing a sidewalk easement, the applicant actually build the sidewalks. Deschenes stated that they showed a sidewalk that could be built on the outer side of the stonewall between Carlisle Road and the stone wall. Deschenes stated that Staff indicated that the Highway Department would prefer ten feet between the edge of pavement and the edge of a sidewalk unless vertical granite curbing is installed. Deschenes stated that they could only provide five feet and five foot sidewalk before running into the wall. Deschenes stated that the solution was to put the sidewalk inside the stone wall. Deschenes stated that the waiver analysis has been submitted to the Board. Deschenes stated that Staff not only wanted the applicant to build the sidewalk but also provide a crossing at the wetlands and connect to Landmark Road. Deschenes was concerned that the crossing is in excess of 25 feet which will be difficult to design and implement as well as the costs associated with a large crossing.

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Deschenes stated that the applicant is willing to do what they can and make a commitment but they would like the Board to put a cap on the costs.

Jim Zegowitz of CTZ Design Partnership, applicant, stated that he was nervous about the costs associated with building a bridge.

Fletcher suggested that instead of building the sidewalk on the site, the applicant make a contribution to the sidewalk fund and use it where it is more applicable. Greenhill stated that there is a potential for a sidewalk link in the area relative to the rails to trail project. Fletcher also suggested that the money be put into the sidewalk fund, have the applicant provide an easement, and when the trail comes through extend the sidewalk

from the intersection of Route 27 and Carlisle Road to Landmark Road. Peraner-Sweet concurred and asked the applicant to put \$10,000 into the sidewalk fund and earmark it for the sidewalk within the easement or to provide access to the bike trail for the residents of Xavier Lane.

The Board and Deschenes discussed the performance bond guaranty. The Board added the words "*or covenant*" to numbers 37, 38 and 39 under Performance Guaranty. The Board removed number 34 and added the following language: *That the applicant shall provide an easement as shown on the plan of approval; said easement to be granted to the Town before the third lot release; and the Town gratefully accepts the donation of \$10,000 to the sidewalk fund for construction of a sidewalk in the area of Xavier Lane to provide access to the bike trail (the donation should be contributed before the third lot is released).*

It was moved by Peraner-Sweet, seconded by Fletcher, and VOTED UNANIMOUSLY, to close the public hearing.

It was moved by Peraner-Sweet, seconded by Shaffer, and VOTED UNANIMOUSLY, that the Planning Board waive roadway construction as a minor street in accordance with Section 218-13 for Xavier Lane.

It was moved by Peraner-Sweet, seconded by Fletcher, and VOTED UNANIMOUSLY, that the Planning Board approve a waiver of Section 218-13.A.(3)a. to construct a driveway with a length of less than 400 feet.

It was moved by Peraner-Sweet, seconded by Shaffer, and VOTED UNANIMOUSLY, that the Planning Board approve a waiver of Section 218-11(B).18 which is a waiver from the requirement for a full environmental impact report.

It was moved by Peraner-Sweet, seconded by Shaffer, and VOTED UNANIMOUSLY, that the Planning Board approve the Definitive Subdivision for Xavier Lane as shown on plans dated March 8, 2004 and revised August 2, 2004 in accordance with Staff's report entitled "Issues for Consideration" dated August 2, 2004, and as amended here tonight.

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Deschenes asked for permission to withdraw the Special Permit application for a common driveway. Deschenes will provide a written request.

PUBLIC HEARING – WESTFORD TECH PARK WEST – SITE PLAN REVIEW – SPECIAL PERMITS

Concord/Powers Road, Westford West Realty Trust (Gutierrez), Continued from June 21, 2004

Continued to September 7, 2004 at 8:45 p.m. at the request of the applicant.

DISCUSSION ITEM – WOOLSACK ESTATES ***Wescon Construction***

Mark Sleger, LANDTECH Consultants, was present. Sleger reported that he provided evidence to the Town Engineer showing that Woolsack Estates is not causing the icing problem on Brookview and Beaver Dam Drive. Sleger also reported that he met with the Highway and Engineering Departments. Sleger stated that he was convinced that the subdivision is not generating any additional water. Sleger referenced a letter from Jay Billings dated June 28, 2004. Sleger suggested resolving the issue by installing a drainage trench to pick up the additional groundwater before it approaches Brookview Drive and tie it into the existing drainage system. Sleger stated that there is some money available through mitigation funding that was set aside by the developer in conjunction with the subdivision for drainage issues.

Peraner-Sweet referenced condition #13 regarding the applicant making all repairs, maintenance and improvements necessary to effectuate the proper functioning of detention basins, stone trenches, berms and swales, head wall and culverts, and the submittal of inspection and maintenance reports to the Westford Conservation Commission, Planning Board and Highway Department within two weeks after each inspection. Peraner-Sweet asked if the applicant had been following condition #13. Sleger stated that they would make every effort to be in compliance.

Jack Mangan, 8 Beaver Dam Drive, stated that the issue of the water coming between 6 and 8 Beaver Dam Drive was not coming from the stream but off 6 Beaver Dam. Mangan stated that the water was streaming out of the ground. Shaffer stated that he saw the water bubbling out of the ground in May. Mangan was concerned with his septic system in his backyard. Mangan stated that there were supposed to be plantings that have not occurred. Green asked Sleger to provide a written response to those issues.

Green suggested based upon current performance and maintenance that Staff look at modifying the condition for an extended maintenance period. Green asked the applicant to volunteer extending their personal maintenance in the Homeowner's Association so that the Board does not have to re-open the public

hearing. Sleger stated that he would make the recommendation. Green asked Staff to do more investigation regarding the water situation brought up by Mangan. Sleger stated that Mr. Guthrie (developer) indicated that he would be cooperative and install the drainage trench using the mitigation money.

It was moved by Peraner-Sweet, seconded by Shaffer for discussion, that the Planning Board execute Condition 11 concerning \$25,000.00 and earmark it to go to the amelioration of the drainage issues that we are facing on Beaver Dam Drive and adjacent properties.

Shaffer wanted the applicant to provide invoices to the Town and that the Town needed to agree to the cost before the work begins.

Peraner-Sweet withdrew her motion.

It was moved by Peraner-Sweet, seconded by Shaffer for discussion, that the Planning Board direct the applicant to expend up to \$25,000.00 to fix the drainage issues along Beaver Dam Drive and in connection with that he

submit for approval by the Engineering Department all invoices associated with work to be done on that road and the adjacent land; and submit an appropriate plan for review by Staff.

Palmer questioned the use of the money based upon the reports that Woolsack Development is not exacerbating the water problem. Palmer was uneasy taking money that could be used for a sidewalk and using it to fix a drainage problem.

Jose Ramirez, 14 Beaver Dam Drive, recalled that the money was specifically set aside to be used for drainage issues and not necessarily for sidewalks.

Shaffer stated that he was willing to commit some money but not all of the \$25,000.00 in order to address the problem in front of 12 Beaver Dam Drive. Shaffer wanted to keep some funds to address the problems in front of 6 and 8 Beaver Dam Drive.

Peraner-Sweet amended her motion: **that any funds less than \$25,000.00 be retained for any further issues that may come up in connection with Woolsack Estates.**

Shaffer seconded Peraner-Sweet's amendment and offered his amendment: **if the cost estimate is more than \$17,000.00 it has to come back to the Board.**

Peraner-Sweet was not in favor of Shaffer's amendment. Green pointed out that the plans have to go to the Engineering Department for approval. Green stated that once plans are generated, the actual costs will be known which may be more or less than the cost estimate. Shaffer withdrew amendment.

VOTE ON PERANER-SWEET'S AMENDMENT: 4 IN FAVOR WITH 1 ABSTAINING (PALMER).

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VOTE ON THE PERANER-SWEET'S MAIN MOTION: 4 IN FAVOR WITH 1 ABSTAINING (PALMER).

Continued to a meeting in September for discussion (date to be determined).

DISCUSSION ITEM – WOODLANDS AT LAUREL HILL – PRESENTATION

Durkee Lane, Joel Kahn

Withdrawn at the request of the applicant. Greenhill stated that Kahn indicated that they had new information and wanted to present the correct information to the Board.

DISCUSSION ITEM – CHESTNUT HILL
OHC and CHESTNUT HILLS

Green reported that progress has been made since the last meeting. Tom Ellis, OHC Development, stated that they received the consent letters from the five homeowners and their lenders of the affected lots. Ellis stated that the engineering plans have been reviewed and issues have been addressed. Ellis stated that they had a meeting with their contractor who built the retaining wall at 5 Tavern Circle. Ellis pointed out that the wall

had some structural problems. The contractor will rebuild the wall in the proper location. Ellis and the Board discussed the easement. Peraner-Sweet suggested that Staff contact Town Counsel for the appropriate wording of the easement and then present it to the applicant for review. The Board directed Staff to advertise the public hearing for August 23, 2004 at 8:30 p.m. Fletcher believed that it would be appropriate to open a public hearing as a definitive to deal only with the roadway issues. The Board suggested that Staff also check with Town Counsel regarding the public hearing regarding the original public hearing (special permit). Ellis stated that they have a buyer for Lot 29 who has been trying to get a building permit to buy the lot and build the house. The Board indicated that this is the last lot in the subdivision and it is being held for security reasons. Greenhill noted that the lot has been released but the building permit has not been released. Ellis asked the Board how this could be resolved. Green cautioned holding this issue until the public hearing to make sure that the proper easements and other paperwork are in hand. Shaffer noted that Erin's Way was not build per the plans and the Board still needs to open a public hearing to deal with those issues.

The owner of 5 Tavern Circle expressed concerns with moving the retaining wall off the right-of-way which will impact the Title 5 of their septic system.

DIRECTOR'S REPORT, cont.

VILLAGES AT STONE RIDGE – PHASE VII – Green recused himself as he is an abutting landowner. Attorney Doug Deschenes and Mark Sleger, LANDTECH Consultants, were present seeking lot releases of the final 15 lots. Greenhill

referenced his letter dated June 16, 2004 to David Guthrie outlining the outstanding issues relative to trails; landscaping; and demarcation of the extent of work for the final phase. Greenhill reported that he met with Guthrie on Friday, July 29, 2004 to discuss the plans for the trails and remaining landscaping for the previous phase. Greenhill stated that the extent of work has been demarcated. Greenhill stated that there is also an issue with contributions to be made to the Town as part of the occupancy permits. Deschenes stated that the applicant has offered to write the checks for the mitigation but were told to hold off until the "Westfordable" unit is resolved. Peraner-Sweet felt that the public hearing needed to be reopened in order to amend the condition to deal with the "Westfordable" unit because it was under the Senior Residential Development Overlay. Greenhill stated that he currently has six (6) building permits in his office. Arsenault reported that there is a missing guard rail and retaining wall on Stonestone Road as well as drainage not shown on the plan. Arsenault also reported that the applicant needed to increase the bond for Gatecrest Road. Sleger stated that he increased the numbers on Form G. The Form G needed to be reviewed by the Engineering Department. Sleger asked to release Lot 31-2 on Sandstone Road as there was a buyer ready to purchase the lot. Peraner-Sweet did not want to release a lot that has not been bonded.

It was moved by Fletcher that the Planning Board release Lot 31-2 at Station 12+50 on Sandstone Road in lieu of that the Planning Board takes back any other existing lots that have been previously released in exchange for release of that one lot.

Shaffer recommended dealing with this on Saturday, August 7, 2004 during a site walk (scheduled for different location) after Deschenes talks to the applicant. The Board will vote on the motion at that time.

ADJOURNMENT

It was moved by Shaffer, seconded by Palmer, and VOTED UNANIMOUSLY, to adjourn the meeting.

Submitted by Beth A. Kinney, Recording Secretary